

Filing, Exchange and Service under the Amended Rules

(with Amendments through August 1, 2001)



Deadline/Rule	Description	File, Serve or both?	When?
LR 26.01	initial case assignment interrogatories	file and serve	at time party first appears <i>New 2001: clarification as to removed cases¹</i>
FRCP 26(f) Report & LR 26.03Suppl.	report after FRCP 26(f) initial discovery conference	file if joint report (encouraged) file and serve if separate reports	at time set by scheduling order, ² if issued, otherwise by time set by FRCP 26(f)
FRCP 26(a)(1)	initial disclosures	serve only - do not file absent order directing to do so. NOTE: parties may, by written stipulation, agree not to make these disclosures	at time set by scheduling order, if issued, otherwise by time set by FRCP 26(a)(1)
FRCP 16(b)(1) LR 16.02(C)(1)	motion to join/amend	file and serve	deadline set by scheduling order
FRCP 26(a)(2) LR 16.02(C)(2)	expert witness disclosures	file: only identifying information ³ serve: full report required by FRCP 26(a)(2)	deadline set by scheduling order or FRCP 26(a)(2) if not set

¹ If a complaint is initially filed in district court, plaintiff is the first to file these responses. Defendant then files whenever it first “appears” (including, but not limited to, filing a motion to dismiss or answer). If the complaint is removed from state court, the removing defendant files the first responses at the time of removal. All other parties file responses within ten (10) days after service of the notice of removal.

² References to “scheduling order” in this chart include: Pre-Scheduling Orders; Scheduling Orders; and Conference and Scheduling Orders as described in Local Civil Rules 16.01-16.02.

³ The federal and local rules only refer to the service or exchange of the expert disclosures and record custodian affidavits. Most of the District Judges however, include requirements in their orders to file the records custodian affidavits and to file a document identifying the expert(s) and certifying compliance with the federal rule by the expert disclosure deadline. These limited filing requirements are intended to avoid disputes as to whether disclosures were made. The Local Civil Rules have been amended to address these filing requirements.

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Deadline/Rule	Description	File, Serve or both?	When?
LR 16.02(C)(3) & (D)(3)	records custodian affidavits (and objections)	file and serve (See note 3)	deadline set by scheduling order (objection deadline set by LR 16.02(D)(3))
FRCP 16(b)(3) LR 16.02(C)(4)	discovery deadline	no specific filing requirement - deadline only	deadline set by scheduling order
LR 16.03	ADR certification	file and serve	deadline set by scheduling order
FRCP 16(b)(2)	motions deadline	file and serve any motions	deadline set by scheduling order
FRCP 26(a)(3)	pretrial disclosures counter designations/objections	file and serve	deadline set by scheduling order or FRCP 26(a)(3)
LR 26.07	meet, mark & exchange exhibits	no specific filing requirement unless order directs	deadline set by scheduling order or LR 26.07(A)
LR 26.05	pretrial briefs	submit <u>all</u> <i>in camera</i> to court; file and serve N & O ⁴	deadline set by scheduling order or LR 26.05

⁴ The August 1, 2001 Amendments rescind the December 1, 2000 Local Civil Rules requirement to file responses to N & O (exhibit list and request for voir dire), but they are still exchanged. Judges may still require, by order, the filing and service of some portion or the entire pretrial brief.